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GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER BRANDON

2012 MAY 25 PM 3 41

BY

DEPUTY

EIGHTEENTH JUDICIAL DISTRICT, GALLATIN COUNTY, MONTANA

GALLATIN COUNTY, MONTANA,

Plaintiff,

vs.

THE DURRANT GROUP, INC.,

Defendant.

Case No.: *DV-12-367A*

COMPLAINT

no summons

Plaintiff, Gallatin County, by and through its undersigned counsel of record, files this complaint:

PARTIES

1. Plaintiff, Gallatin County (County) is a political subdivision of the State of Montana governed by its elected Board of County Commissioners which has the legislative and executive powers set forth in Montana law.
2. Defendant, The Durrant Group, Inc. (Durrant) is a Wisconsin corporation with offices in Denver, Colorado and provides architectural services.
3. Durrant through its agents is licensed to do business in the State of Montana and at all times relevant to this complaint transacted business and committed acts in the State of Montana.

JURISDICTION AND VENUE

4. The jurisdiction of this court is invoked pursuant to Montana law and agreement of the County and Durrant. Performance of contracts and commitment of acts have occurred in

Gallatin County, Montana. Venue is therefore proper in this court. The County and Durrant have also agreed that venue is proper in this court.

FACTS

5. On or about March 5, 2008 the County and Durrant entered into a contract by which Durrant agreed to perform certain architectural services including the preparation of plans and specifications for the construction of the new Gallatin County Detention Center (Detention Center) located in the City of Bozeman. The terms and conditions of that contract were modified numerous times during the course of performance of the contract.

6. Beginning in May of 2009 during the course of performance of the contract the County notified Durrant of its design defects and deficiencies for the Detention Center project.

7. As the Detention Center project continued the County continued to notify Durrant of additional design defects and deficiencies a summary of which are set forth in Exhibit A of this complaint which is attached and incorporated by reference.

8. The County additionally disclosed to Durrant design defects and deficiencies related to certain mezzanine doors in the Detention Center the costs of which exceeded those set forth in Exhibit A.

9. Additional design defects and deficiencies have been discovered by the County.

10. The County being wholly untrained in the matters connected with the design and construction of a Detention Center relied on the acts, recommendations and advice of Durrant in the architectural services it performed for the Detention Center project.

11. On or about December 15, 2011 Durrant notified the County that the Detention Center project was complete.

12. On or about January 26, 2012 Durrant filed for bankruptcy protection in the United States Bankruptcy Court in the Northern District of Iowa, Case No. 12-00110.

13. On May 17, 2012 Durrant's petition in bankruptcy was dismissed.

14. From the point in May 2009 where the initial design defects and deficiencies were disclosed to the filing of bankruptcy by Durrant in January of 2012, the County intended to mediate disputes pursuant to the requirements of the contract it entered with Durrant.

CLAIMS FOR RELIEF

Count I – Breach of Contract

15. Plaintiff incorporates the allegations of Paragraphs 1-14 above as restated here in full.

16. The contract between the County and Durrant as entered and modified is supported by good lawful consideration and is legally binding and enforceable against Durrant.

17. The contract between the County and Durrant as entered and modified obligates Durrant to perform certain architectural services for the Detention Center project.

18. Durrant failed to perform architectural services under the contract between the County and Durrant.

19. Durrant's failure to perform constitutes breach of contract including breach of corresponding warranties and covenants of good faith and fair dealing.

20. Durrant's breach has caused Gallatin County damages in an amount to be determined at trial.

21. The contract between the County and Durrant as entered and modified sets forth that attorney's fees and costs are to be paid to a prevailing party in the event of a dispute.

Count II – Negligence

22. Plaintiff incorporates the allegations of Paragraphs 1-21 above as restated here in full.

23. Durrant by agreeing to provide the County certain architectural services for the Detention Center project was obligated to exercise ordinary and reasonable care and skill in providing those services to the County.

24. Durrant breached its duty to use ordinary and reasonable care and skill in providing architectural services to the County.

25. As a direct and proximate result of that Durrant's negligence the Detention Center project contains design defects and deficiencies and the County has had to remedy those design defects and deficiencies at additional cost.

26. The value of the damages to the County based on Durrant's design defects and deficiencies are in an amount and cost to be determined at trial.

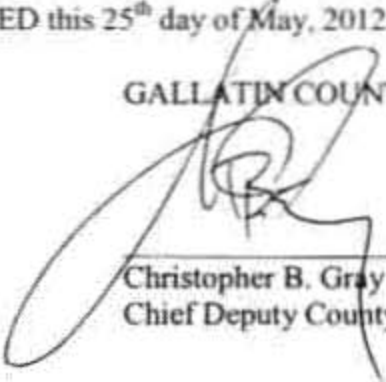
PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request this court grant the following relief:

1. Award Plaintiff damages in an amount to be determined at trial;
2. Award Plaintiff all costs and expenses of this action, including attorneys fees, to the extent allowed by law; and
3. Award such additional relief the court deems proper to the Plaintiff.

DATED this 25th day of May, 2012.

GALLATIN COUNTY ATTORNEY'S OFFICE



Christopher B. Gray
Chief Deputy County Attorney

EXHIBIT A

Change Order Number	Bulletin Number	Basis	Responsible Discipline	Description of Scope change (Potential Design Error/Omission)	Total Cost of Change per CMAR
CMAR CO 1	Bulletin# 032	COB Big Dpt Review comments, CMAR RFI 018	Structural	Code Compliance (Structural - Rebar required by Building Code	\$24,139.03
	Bulletin# 005	CMAR RFI 052	Civil	Manhole required, incorrect elevation	\$6,957.32
CMAR CO 2	Bulletin# 008	CMAR RFI 028	Security	Security Components required by Program	\$5,764.58
CMAR CO 3	Bulletin# 007	DUI Relocation Sitewalk	Architectural	DUI move-related changes	\$8,153.43
	Bulletin# 014	CMAR RFI 107	Architectural	Minor Architectural change - shift wall to encompass electrical	\$464.06
CMAR CO 4	Bulletin# 020	CMAR RFI 141, 136, 103, 103a	Mechanical	Code Compliance- Plumbing	\$21,394.91
	Bulletin# 022	CMAR RFI 147	Structural	Structural Requirement change to scope	\$1,704.17
	Bulletin# 023	CMAR RFI 143	Structural	AHU bearing inadequate	\$44,943.76
	Bulletin# 024	ASI 024	Structural	Structural Requirement, change to scope	\$919.99
CMAR CO 6	Bulletin# 029	CMAR RFI 198	Structural	Insufficient detail at structural component (corbel)	\$9,222.04
	Bulletin# 030	CMAR RFI 174, 174a	Electrical	Electrical drawings failed to include electrical support at tv	\$2,077.31
	Bulletin# 035	Security Glazing sitewalk	Security	Security glazing not adequate at frames separating multi-purpose room from corridor	\$5,390.00
CMAR CO 7	Bulletin# 039	CMAR RFI 236, 237	Mechanical	Missed drains at showers	\$340.38
	Bulletin# 040	ASI 032	Security	Security error - Glazing at entrances	\$1,107.83
CMAR CO 8	Bulletin# 050	Submittal 094	Architectural	Fire rating requirements at door (detention area)	\$6,360.49
	Bulletin# 051	CMAR RFI 067	Security	Security covering for below-mezzanine sprinkler pipe	\$5,376.32
	Bulletin# 055	CMAR RFI 242	Structural	Need to add steel supports at roof decking	\$632.65
CMAR CO 9	Bulletin# 058	CCD 005, ASI 026, CMAR RFI 270	Architectural	Drawings did not reflect required slope at VSP floor- deduct from Constuction Contingency	\$2,258.18
	Bulletin# 059	ASI 026a, CMAR RFI 261	Civil (also, Mechanical)	Add trench drain, remove roof drains	\$907.66
CMAR CO 10	Bulletin# 063	CMAR RFI 267, 268	Architectural	Fire rated glazing at speaker port location	\$1,324.02
	Bulletin# 064	CMAR RFI 287a, 288	Structural	Add additional steel at entrance canopy	\$2,006.92
	Bulletin# 065	CMAR RFI 292R, 292a	Architectural	Add door drop plates to support required hardware assemblies	\$279.28
	Bulletin# 070	CMAR RFI 305a	Mechanical	Required to meet with AHJ requirements at meter location	\$5,303.62
CMAR CO 11	Bulletin# 072	CMAR RFI 306a	Mechanical	Roof Drainage vertical run had to be re-routed	\$9,189.73
	Bulletin# 073	CMAR RFI 317	Architectural	Skylights required additional termination bar beyond accepted submittal	\$3,466.09
CMAR CO 12	Bulletin# 077	CMAR RFI 067a	Electrical	Lights at showers below Mezzanine	\$10,313.80
	Bulletin# 079	CMAR RFI 340, 341	Architectural	Unsatisfactory finish at exposed beam/wall sections	\$2,788.28
	Bulletin# 080	CMAR RFI 325	Mechanical	Water lines required re-route due to pre-cast beam	\$6,347.22
	Bulletin# 081	CMAR RFI 339	Mechanical	Cost for adding sprinkler coverage	\$527.69
	Bulletin# 082	ASI 038	Architectural	Specification interpreted as allowing wooden transaction, Owner required metal transaction drawer	\$3,150.06

CMAR CO 13	Bulletin# 086	TRF1 016	Architectural	Locksets do not follow pattern for interior/exterior sallyport operation and the County's operational expectation	\$8,303.31
	Bulletin# 088	ASI 044	Architectural	Provide for minimum security expectation at joints created between both similar and dissimilar wall types.	\$5,374.55
	Bulletin# 091	CMAR RFI 357	Architectural	Specified recessed fixtures in exposed condition at front canopy	\$585.16
	Bulletin# 095	ASI 045	Security	Security Electronics failed to provide for ability to communicate through barrier	\$5,625.24
CMAR CO 14	Bulletin# 101	CMAR RFI 381	Mechanical	Need to add mixing valves at showers, not shown on dwgs.	\$1,950.19
CMAR CO 15	Bulletin# 120	TRF1 051	Mechanical	Incorrect shower unit (detachable ADA shower hose) and non-detection grab bars.	\$83,750.51
	Bulletin# 121	CMAR RFI 408	Electrical	Missed light in corridor that connects GP Rec with Dayroom for Fire Evac.	\$1,258.40
CMAR CO 16	Bulletin# 134	CMAR RFI 418 Response	Security	Wrong glazing type, needed to be security glazing	\$508.42
	Bulletin# 139	CMAR RFI 372, TRF1 041	Architectural	Moderesty panel designs did not adequately provide expectation for line of sight security posture	\$9,945.78
CMAR CO 17	Bulletin# 125	TRF1 50	Architectural	Door stops created tripping hazard and code-compliance issue.	\$4,176.82
	Bulletin# 155	CMAR RFI 421	Mechanical	Add hot and cold water (rather than tempered) at mop sink	\$1,197.73
	Bulletin# 159	CMAR RFI 441	Mechanical	RATP at Central Control scope change	\$9,117.78
	Bulletin# 160	CMAR RFI 448	Security	Add cameras at Staff Sally Port and corridor	\$10,848.19
	Bulletin# 161	TRF1 068	Architectural	Officer station designed and mounted too low for design intent (standing Officer station)	\$1,168.84
	Bulletin# 163	TRF1 065	Security	Provide inmate phones at GP Mezzanine level	\$4,526.29
	Bulletin# 169	CMAR RFI 454	Security	Add locking hardware at Lobby exit doors.	\$3,032.01
CMAR CO 18	Bulletin# 172	TRF1 071	Security	Correct line of sight error at A pod	\$11,347.32
	Bulletin# 175	CMAR RFI 462	Electrical	Including lighting relay wiring for Dormitory bathroom lighting	\$5,671.66
CMAR CO 19	Bulletin# 198	CMAR RFI 472	Mechanical	Replicate water control in first floor dormitory as in second floor dormitory	\$5,181.34
	Bulletin# 199	CMAR RFI 477	Mechanical	Shower exhaust reroute at Male GP unit	\$4,374.55
	Bulletin# 222	CMAR RFI 494	Electrical	Relays at Kennel fixtures for battery operation	\$7,749.79
	Bulletin# 223	CMAR RFI 496 Rev	Electrical	Track lighting power supply 120V rather than 277V as designed	\$1,117.49
CMAR CO 20	Bulletin# 200	CMAR RFI 483	Civil	Missing concrete splash pan for drainage from roof	\$2,299.38
	Bulletin# 205	TRF1 095	Architectural	Rubber cove base at all floor to wall intersection (minus door/frames)	\$4,769.51
	Bulletin# 212	CMAR RFI 063a-Rev	Electrical	Missing emergency power at VSP OH door function	\$4,271.65
	Bulletin# 215	ASI 062	Electrical	Power and transformer for irrigation pump	\$5,139.40
	Bulletin# 216	CMAR RFI 489	Mechanical	Missing backflow preventors at Double Steamer in Kitchen	\$1,009.34
CMAR CO 21	Bulletin# 226	CMAR RFI 502	Electrical	Emergency power at emergency exit signs	\$1,299.05
	Bulletin# 227	CMAR RFI 482	Mechanical	Missing duct detectors in chases	\$3,003.36
	Bulletin# 228	CMAR RFI 507	Mechanical	Code requirement adding smoke detector in sub-dayroom, Female Maximum	\$1,326.47
CMAR CO 22	Bulletin# 230	CMAR RFI 476	Architectural	Code requirement modification to correct door swing issue at mezzanine doors x 42	\$5,167.59

	Bulletin# 231	CMAR RF1 510	Electrical	Emergency power at smoke dampers in Dayrooms, per IBC 4.6	\$5,410.85
	Bulletin# 232	CMAR RF1 511	Architectural	Code requirement for handrails at booking platform steps, per AHJ	\$790.66
	Bulletin# 233	CMAR RF1 512	Mechanical	Code requirement, provide smoke detectors, per AHJ	\$3,181.26
	Bulletin# 234	CMAR RF1 894a	Electrical	Code requirement, install relays at lights to function properly during emergency power	\$2,637.07

\$ 369,927.78